

INDIAN PREFERENCE IN EMPLOYMENT ORDINANCE

Ordinance # 04-600-02

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this ordinance is to set forth the policy and requirements for the application of Indian preference to employment activities of the Tribe.

1.02. *Findings.* The Tribal Council finds that:

- a. the Tribal Council has a responsibility, “to promote, protect and provide for the public health, peace, morals, education and general welfare of the Little River Band and its members,” *Constitution, Article IV, section 7(a)(2)*;
- b. a policy of the government is to provide for employment opportunities for the members of the Little River Band of Ottawa, as well as their families and other Native Americans; and
- c. the development of a law setting forth Indian preference criteria is necessary to further this governmental policy.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.*

- a. This Ordinance is adopted by resolution # 02-0313-01.
- b. Amended by resolution #04-1110-446 - clarification of application of preference in hiring process.

2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

2.04. *Compliance.* In regards to compliance with this ordinance, and the regulations promulgated in accordance with delegations under this ordinance, substantial compliance with the ‘spirit’ of this law and regulations rather than complete compliance is acceptable.

Article III. Definitions.

3.01. For purposes of this Ordinance, certain terms are defined in this Section. The word “shall” is always mandatory and not merely advisory.

3.02. *Descendants* means those persons who are the biological issue of an ancestor who is an enrolled member of the Little River Band of Ottawa Indians; namely, the children, grandchildren, and etc. A descendant may be an enrolled member of the Little River Band of Ottawa Indians, but for purposes of this definition, a descendant does not include enrolled members.

3.03. *Employment* means an offer to be employed by the Little River Band of Ottawa Indians on a full or part time basis whether or not a contract for employment is utilized. Employment does not include temporary employment where the temporary employment does not allow for the position to transition from a temporary to a permanent employment position.

3.04. *Family* means a spouse, or child of a member of the Little River Band of Ottawa Indians living in the same household.

3.04. *Member* means an individual enrolled as a member of the Little River Band of Ottawa Indians.

3.05. *Promotion* means a job position which is higher in responsibility and naturally recognized as a step up from the current position.

3.06. *Supervisor* means the individual responsible for hiring and managing the employee for which a job description has been posted.

3.07. *Enterprise* means any subdivision of the Tribe which maintains separate Human Resource Department responsibilities, but is not a corporation of the Tribe.

3.08. *Temporary employment* means a position that must be filled during a vacancy of an existing position in order to maintain program responsibilities, or the position is for a specific limited purpose.

3.09. *Ogema* means the elected official and does not refer to a representative nor to other persons that may be authorized to carry out the responsibilities of the Ogema from time to time, except in the case of the absence of the Ogema and the constitutional delegation of authority to the Speaker.

Article IV. Employment

4.01. *General.* The Tribal Council has identified that it is a policy that the employment opportunities offered by the Tribe are for the benefit of the members, their families and other Native Americans. To the greatest extent possible, all hiring and promotions within the Tribe shall include preference criteria which creates employment opportunities and paths for promotions and learning to increase management opportunities for members, their families and other Native Americans. Further, the Tribal Council has identified that the Ogema, as the chief executive officer of the Tribe is responsible for execution of this ordinance enacted by Tribal Council.

4.02. *Application of Ordinance.* This ordinance shall govern the application of preference to employment and shall set forth the policy and requirements in the application of preference in hiring and promotions throughout the Tribe. The Tribe and its subdivisions includes those corporations deemed to be extensions of the Tribe, but does not include those corporations for which federal law or the interpretation of federal law has determined are not extensions of the Tribe. Further, the application of this law shall be mandatory for the Tribe and its subdivisions and may be utilized by businesses located on or near the Little River Band of Ottawa Indians as authorized under 42 U.S.C. s. 2000e.

4.03. *Regulations.* The Tribal Council confers upon the Ogema the responsibility to develop regulations to fully implement the Indian preference policies of the Tribe. The Ogema may delegate responsibility to develop regulations, but, such regulations must be approved by the Ogema prior to presentation to the Tribal Council. All regulations shall be filed with the Tribal Council Recorder, who shall place such regulations on the Tribal Council agenda to be approved by resolution. Such regulations shall not be valid until approved by the Tribal Council.

4.04. *Preferences Granted.* As set forth in section 4.01, the following order of preferences shall be granted.

- a. Enrolled members of the Little River Band of Ottawa Indians;
- b. Enrolled members of other federally-recognized Indian tribes and other Native American persons descended from non-federally recognized Tribes in the State of Michigan with at least one-quarter Indian blood;
- c. Spouses and descendants of enrolled members of the Little River Band of Ottawa Indians.
- d. Members of Tribes recognized by the Canadian government.

4.05. *Job Descriptions.* All job descriptions shall contain separate sections for required position qualifications and general qualifications.

- a. Required position qualifications are those which are necessary to the position as basic qualifications, for example – professional licensing or skills, typing # words per minute, or driver's license.
- b. General qualifications are those which are beneficial to the employment position but can be obtained either on-the-job or within a reasonable period after employment as identified by the supervisor. A reasonable time period shall be defined by the supervisor prior to posting the job description.

c. Requirements for specific educational requirements such as degrees, certifications, and other education related acknowledgments may be identified by relevant practical experience of the applicant in accordance with criteria set forth in regulations approved by the Tribal Council. Education requirements shall be satisfied only through receipt of a certification or degree issued through an institution approved or accredited by the United States Department of Education or the Council for Higher Education Accreditation.

4.06. *Hiring Process.* For purposes of this ordinance, the hiring process involves general three steps – screening; interviewing; offer of employment. No job description, once approved and posted, may be withdrawn unless the position will no longer be filled. In the event no applications are received which meet the required qualifications, the job description shall be reposted. If the Ogema approves, the job description may be redrafted after the second posting, if no Indian preference applicant can be offered training to meet required qualifications within a short period of time.

a. Screening is the process of reviewing applications for required qualifications.

b. Interviewing is the process of meeting each screened applicant and asking standard questions in order to get a better picture of the candidate, and may or may not include standardized testing.

c. Offer of employment is the formal offer of employment to the final candidate.

4.07. *Qualified Preference Candidate.* An applicant is qualified to be considered for preference interviews if he or she has identified, and provided proof of, preference as identified in section 4.04 on the application and meets the required position qualifications on the posted job description which are verified through the screening process.

4.08. *Preference Interviews; Qualified Preference Candidates.* Preference interviews are scheduled when there are at least three applications where preference is granted under section 4.07. A preference candidate meeting the qualifications for the position is expected to be selected and given an offer of employment. Supervisors shall identify why the preference candidate did not receive an offer of employment. The Ogema shall be required to approve all circumstances where a supervisor has determined that he cannot hire the preference candidate. Provided that, the Recorder for the Tribal Council, or the supervising Tribal Court Judge, shall approve requests to offer employment to a non preference candidate in cases of the Tribal Council and Tribal Court hiring respectively. Upon approval by the Ogema, Tribal Council or supervising Tribal Court Judge as applicable, the supervisor may conduct interviews from the remaining pool of applicants, and Indian preference applicants shall be included in the open interviews.

4.09. *Open Interviews.* Where there is no preference interviews under section 4.08, a preference candidate meeting the qualifications for the position is expected to be selected and given an offer of employment. Supervisors shall identify why the preference candidate did not receive an offer of employment. The Ogema shall be required to approve all circumstances where a supervisor has determined that he cannot hire the preference candidate prior to an offer of employment being made to a non-preference candidate. Provided that, the Recorder for the Tribal Council, or the supervising Tribal Court Judge, shall approve requests to offer employment to a non preference candidate in cases of the Tribal Council and Tribal Court hiring respectively.

4.10. *Promotions.* The employment regulations shall include provisions for the application of preference in promotions.

4.12. *Education and Training.* The Human Resources Department, in coordination with the Professional Development Department, shall set forth regulations that create education and training opportunities for employees meeting the preferences granted in section 4.04. Provided that, such opportunities may be limited or restricted based on funding, supervisor needs for managing the activities of the department, and availability of other educational or training programs of the Tribe.

4.13. *Temporary Employment.* Temporary employment positions are expected to be filled with preference candidates as identified in section 4.04. Temporary employment positions that are created to fill an immediate need for which no permanent position exists or will be created. Temporary employment positions may also be utilized for permanent positions for which a vacancy exists and must have the length of the temporary position specifically identified when the temporary employment is authorized. All temporary employees must be approved by the Ogema. Temporary employment positions are not required to be posted.

Article V. Reporting; Certification

5.01. *Purpose.* The reporting and certification requirements set forth in this Section are for the purposes of identifying adequate application and scope of this ordinance.

5.02. *Reporting - Tribal.* The Human Resource Department Director shall report to the Tribal Council and the Tribal Ogema on a monthly basis regarding the following information.

- a. Total number of employees and the breakdown of employees in each Indian preference category.
- b. New hires for the prior month and the breakdown of employees in each Indian preference category.
- c. For each interview, the number of applicants and the breakdown of applicants in each Indian preference category, including separation of total applicants for each position interviewed into the same categories.
- d. Notes or recommendations in regards to the information provided and/or amendments suggested to the ordinance.

5.03. *Certifications - Tribal.* The Human Resource Department Director shall develop a certification to be placed with each interview packet which certifies, by the Human Resource Department personnel conducting the posting, screening and interview, that Indian preference was applied, and identifies the following information.

- a. The number of applicants and the breakdown of applicants in each Indian preference category.
- b. The number of applicants interviewed and the breakdown of applicants in each Indian preference category.
- c. The applicant that was offered the position and the Indian preference category, if any, that applies.

5.04. *Reporting; Certifications - Enterprise.* All enterprises shall provide the reports and certifications as set forth in sections 5.02 and 5.03 to the extent this ordinance is applicable. Such reports shall be forwarded to the Tribal Council and Tribal Ogema, as well as the Human Resource Department Director.

5.05. *Businesses on or Near Applying Indian Preference.* Businesses operating on or near the reservation applying Indian preference under this ordinance are encourage to forward information regarding the effect of Indian preference the business' employment base for purposes of identifying areas where educational, vocational or other program development is needed to be developed or provided by the Tribe.